

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DARYL A. LUDY,

Plaintiff,

v.

JAMES SHERMAN, et al.,

Defendants.

Civil Action No. 06-74 Erie

MEMORANDUM ORDER

_____Plaintiff's "Application for Emergency Restraining Order" was received by the Clerk of Court on March 23, 2006 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's report and recommendation, filed on January 9, 2007, recommended that the Defendants' motion to dismiss or, in the alternative, motion for summary judgment [Doc. # 16] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail at F.C.I. McKean, where he is incarcerated, and on the Defendants. No objections were filed. After de novo review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 30th day of January, 2007,

IT IS HEREBY ORDERED that the Defendants' motion to dismiss or, in the alternative, motion for summary judgment [Doc. # 16] is GRANTED.

The report and recommendation of Magistrate Judge Baxter, dated January 9, 2007, is adopted as the opinion of this Court.

s/ SEAN J. McLAUGHLIN

Sean J. McLaughlin
United States District Judge

cc: all parties of record
U.S. Magistrate Judge Baxter